

R305. Environmental Quality, Administration.

R305-4. Clean Fuels and Vehicle Technology Fund Grant and Loan Program.

R305-4-1. Authorization and Purpose.

(1) As authorized by Section 19-1-404, this rule establishes procedures for:

(a) providing loans and grants to government agencies and private sector businesses to convert vehicles to run on a clean fuel, to purchase OEM vehicles, or to retrofit vehicles as provided under Section 19-1-403 to provide air pollution reduction benefits; and

(b) providing loans or state match grants for the purchase of clean fuel refueling equipment for a private sector business vehicle or government vehicle as provided under Section 19-1-403.

(2) As authorized by Section 19-1-404, this rule establishes criteria and conditions for:

(a) awarding grant and loan program monies; and

(b) loan repayment and the collection of loans.

R305-4-2. Definitions.

"Clean fuel" means clean fuel as defined in Subsection 19-1-402(1).

"Clean-fuel vehicle" means clean-fuel vehicle as defined in Subsection 19-1-402(2).

"Department" means the Utah Department of Environmental Quality.

"Fund" means fund as defined in Subsection 19-1-403.

"Government vehicle" means government vehicle as defined in Subsection 19-1-402(6).

"Grant" means monies awarded to an applicant from the fund that do not have to be repaid.

"Electric-hybrid vehicle" means electric-hybrid vehicle as defined in Subsection 19-1-402(3).

"OEM vehicle" means OEM vehicle as defined in Subsection 19-1-402(8).

"Private sector business vehicle" means private sector business vehicle as defined in Subsection 19-1-402(9).

"Refueling equipment" means refueling equipment as defined in Subsection 19-1-402(10)

"Retrofit" means retrofit as defined in Subsection 19-1-402(11).

R305-4-3. Grant and Loan Eligibility.

Eligibility for grants and loans from the fund is limited to projects for government vehicles and private sector business vehicles that meet the eligibility requirements set forth in R307-123, and for refueling equipment dispensing a clean fuel as provided for in Subsection 19-1-403-2(d) within the state of Utah.

R305-4-4. Preliminary Approval Application Procedure.

(1) All grant and loan applicants shall apply on forms provided by the Department as required by Subsection 19-1-404(1)(b)(vii)(A), and shall provide additional project information as requested by the Department.

(2) All private sector businesses applying for a loan shall also complete a financial application that includes the following information:

(a) a current credit report from the NACM Business Credit Services or other reporting bureau authorized by the Department;

(b) a completed balance sheet of the personal or real property that will be used to secure the loan;

(c) copies of federal and state income tax returns for the last two years for the corporation and the applicant; and

(d) additional information as requested by the Department.

(3) All Applicants:

(a) may be charged an application fee of \$140 for vehicle loans, \$280 for grants, and \$350 for infrastructure loans as authorized in Subsection 19-1-403(4)(a)(ii);

(b) shall sign a statement acknowledging that:

(i) approved projects must meet all the eligibility requirements listed in R307-123; and

(ii) applicants that are pre-approved are not guaranteed project reimbursement by the Department; and

(c) shall agree in writing to the provisions in Subsections 19-1-404(1)(b)(vii)(B) through (E), and

(d) shall, in the event that a vehicle converted, retrofitted, or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident:

(i) continue to repay the loan whether or not the vehicle is repairable; or

(ii) appeal to the Department for a resolution as provided for in Subsection 19-1-404(1)(b)(vii)(C).

(A) Applicants that wish to appeal to the Department shall:

1. provide reasonable documentation that the vehicle converted, retrofitted, or purchased is inoperable through mechanical failure or accident; and

2. propose a course of action that may include adjusting the loan repayment schedule or terms of the loan or grant.

(B) Any remedy pursued by the Department will be handled on a case-by-case basis and at the discretion of the Department.

(4) Once the Department has deemed that the application is complete and the proposed project complies with this rule, the application shall be reviewed by a committee consisting of at least the following:

(a) the DAQ Grant and Loan Program Coordinator or designee;

(b) the DAQ Mobile Section Manager or designee;

(c) two DAQ technical specialists chosen by the Department; and

(d) other members as designated at the discretion of the Department.

(5) The committee will evaluate each application according to the criteria provided in Sections R305-4-6 and 7.

(6) When considering grant and loan applications, the Department may modify the dollar amount or project scope for which a grant or loan is awarded.

(7) Submission of an application under this program and this rule constitutes the applicant's acceptance of the criteria and procedures of this rule.

(8) If rejected at any stage of the process, the applicant may consult with the Department to determine appropriate revisions to the application that should be made prior to submitting the application for reconsideration.

R305-4-5. Final Approval Procedure and Payment Process.

(1) Once an applicant's project has been pre-approved to receive a grant or loan, the applicant shall provide all additional documentation required in R307-123.

(2) If rejected at any stage of the process, the applicant may consult with the Department to determine appropriate revisions to the application that should be made prior to submitting the application for reconsideration.

(3) Once an applicant has obtained final approval to receive a grant or loan, including signed contract documents, monies from the fund will be issued as reimbursements for the applicant's project costs.

(4) Grant or loan monies for a state match of a federal or non-federal grant will only be issued to the applicant after the applicant's project has been approved by the granting entity for the federal or non-federal grant.

(5) The approved applicant shall continue to comply with the provisions of this rule.

R305-4-6. Prioritization of Awards for Grant Applications.

As required by Subsection 19-1-404(1)(b)(iv), the Department will consider the following criteria in prioritizing and awarding grants:

(1) The feasibility and practicality of the project;

(2) The financial need of the applicant including its financial condition and the availability of other grants, rebates, or low-interest loans for the project;

(3) Whether and to what extent the monies requested are being provided as a state match of a federal or nonfederal grant; and

(4) The environmental and other benefits to the state and local community attributable to the project.

(5) When determining feasibility, the committee established in Subsection R305-4-4(4) may consider but are not limited to the following criteria:

(a) the cost of the project relative to market cost information; and

(b) the length of time proposed to complete the project.

(6) When determining practicality, the committee established in Subsection R305-4-4(4) may consider but are not limited to the following criteria:

(i) the technology selected for the project; and

(ii) the location of the project.

(7) When determining the environmental and other benefits to the state and local community attributable to the project, the committee established in Subsection R305-4-4(4) may consider but is not limited to the following criteria:

(a) the pollution reduction benefits attributable to the project;

- (b) the location of the project;
- (c) the ratio of the total project cost to the environmental and other benefits attributable to the project; and
- (d) the accessibility and openness of any refueling equipment to the public, if applicable.

R305-4-7. Prioritization of Awards for Loan Applications.

As required by Subsection 19-1-404(1)(b)(iv), the Department will consider the following criteria in prioritizing and awarding loans:

- (1) The feasibility and practicality of the project;
 - (2) The financial need of applicant including its financial condition and the availability of other grants, rebates, or low-interest loans for the project;
 - (3) Whether and to what extent the monies requested are being provided as a state match of a federal or nonfederal grant ;
 - (4) The environmental and other benefits to the state and local community attributable to the project; and
 - (5) The applicant's creditworthiness.
- (6) When determining feasibility, the committee established in Subsection R305-4-4(4) may consider but are not limited to the following criteria:
- (a) the cost of the project relative to market cost information; and
 - (b) the length of time proposed to complete the project.
- (7) When determining practicality, the committee established in Subsection R305-4-4(4) may consider but are not limited to the following criteria:
- (a) the technology selected for the project; and
 - (b) the location of the project.
- (8) When determining the environmental and other benefits to the state and local community attributable to the project, the committee established in Subsection R305-4-4(4) may consider but are not limited to the following criteria:
- (a) pollution reduction benefits attributable to the project;
 - (b) the location of the project;
 - (c) the accessibility and openness of any refueling equipment to the public, if applicable; and
 - (d) the ratio of the total project cost to the environmental and other benefits attributable to the project.

R305-4-8. Grant Program Limitations.

- (1) Grant applications shall not be approved if:
 - (a) awarding a grant to an applicant would result in the Department's inability to fulfill its obligations under this program or this rule;
 - (b) the applicant does not meet the approval requirements of Sections R305-4-4 and 5, and the project eligibility requirements of R307-123;
 - (c) the fund balance is zero;
 - (d) awarding a grant to an applicant would result in the fund balance being less than zero;

(e) the vehicle purchased with grant funds is an electric-hybrid vehicle;

(f) the OEM vehicle purchased with the grant funds has previously been titled, registered, or driven more than 7,500 miles by a person or entity other than the applicant.

(g) the amount of a grant for any vehicle will exceed the provisions in Subsections 19-1-403(2)(c); or

(h) the total amount awarded, including federal or nonfederal grants, for the purchase of vehicle refueling equipment will exceed the actual cost of the refueling equipment.

(2) The annual combined total for all grants approved shall not exceed a maximum of \$250,000 as authorized by Subsection 19-1-404(1)(b)(i).

(3) The maximum number of vehicles purchased, converted, or retrofitted using grant funds by any fleet operator shall not exceed 100 vehicles, as authorized by Subsection 19-1-404(1)(b)(iii).

(4) The maximum amount that may be approved by the Department for a grant is \$100,000; the minimum amount that may be approved is \$5,000.

(5) Awards for applicants for both a grant and loan will not exceed the actual cost of the approved project, minus the amount of any tax credit claimed under Sections 59-7-605 or 59-10-1009.

R305-4-9. Loan Program Limitations.

(1) Loan application shall not be approved if:

(a) awarding a loan to an applicant would result in the Department's inability to fulfill its obligations under this program or this rule;

(b) the applicant does not meet the approval requirements of Sections R305-4-4 and 5, and the project eligibility requirements of R307-123;

(c) the fund balance is zero;

(d) awarding a loan to an applicant would result in the fund balance being less than zero;

(e) the vehicle purchased with loan funds is an electric-hybrid vehicle;

(f) the OEM vehicle purchased with the loan funds has previously been titled, registered, or driven more than 7,500 miles by a person or entity other than the applicant;

(g) the amount of a loan for any vehicle will exceed the provisions in 19-1-403(2)(b) minus the amount of any tax credit claimed under Sections 59-7-605 or 59-10-1009; or

(h) the amount to be loaned for the purchase of vehicle refueling equipment will exceed the provisions in Subsection 19-1-403(2)(d)(ii).

(2) The total combined loans approved annually shall not exceed \$250,000.

(3) The maximum amount that may be approved by the Department for a loan is \$100,000; the minimum amount that may be approved is \$5,000.

(4) Awards for applicants applying for both a grant and loan will not exceed the actual cost of the approved project, minus the

amount of any tax credit claimed under Sections 59-7-605 or 59-10-1009.

R305-4-10. Servicing the Loans and Loan Repayment.

- (1) Loan repayment schedules shall:
 - (a) not exceed ten years, as required by Subsection 19-1-404(2)(b);
 - (b) be based on the financial situation and income circumstances of each borrower;
 - (c) be amortized with equal payment amounts;
 - (d) be of such amount to pay all interest and principal in full; and
 - (e) consider projected savings from use of the clean fuel vehicle as required by Subsection 19-1-404(2)(a). In determining projected savings, the Department may use all current and relevant market cost information.
- (2) The initial installment payment is due on a date established by the Department.
- (3) Subsequent installment payments are due:
 - (a) on the first day of each month for private sector businesses; or
 - (b) as determined by the Department for government entities.
- (4) A notice of payment and due date shall be sent for each subsequent payment. Non-receipt of the statement of account or notice of payment shall not be a defense for non-payment or late payment.
- (5) Loans made from the fund for a government vehicle shall be made with no interest rate as required by Subsection 19-1-404(2)(d).
- (6) Loans made from the fund for a private sector vehicle shall be made at an interest rate provided by Subsection 19-1-404(2)(c).
- (7) Any changes in interest rates, re-negotiation of contract terms or elimination of debt must receive approval by the Department.
- (8) Loan payments received shall be applied first to penalty, next to interest, and then to principal.
- (9) Loan payments may be made in advance or the remaining principal balance of the loan may be paid in full at any time without penalty.
- (10) Penalties for late loan payments shall be:
 - (a) ten percent of the payment due;
 - (b) assessed and payable on payments received by the Department more than 15 days after the due date;
 - (c) assessed only once per scheduled payment; and
 - (d) noticed to the borrower with the amounts of penalty and the total payment due.
- (11) Payments shall be considered received the day of the U.S. Postal Service post mark date or receipted date for payments delivered to the Department by methods other than the U.S. Postal Service.
- (12) If a loan payment check is returned due to insufficient funds, a service charge in the amount allowed by law shall be added to the payment amount due.

(13) Notice of loans paid in full shall be sent after all penalties, interest, and principal have been paid.

R305-4-11. Recovering on Defaulted Loans.

(1) Loans may be considered in default when three consecutive payments are past due by 30 days or more.

(2) If the loan is determined to be in default under R305-4-11(1), the Department or Division of Finance may declare the full amount of the defaulted loan, penalty, and interest immediately due.

(3) The Department or Division of Finance need not give notice of default prior to declaring the full amount due and payable.

(4) The borrower shall be liable for attorney's fees and collection costs for defaulted loans, whether incurred before or after court action.

R305-4-12. Review.

The Department reserves the right to review all data and applicants for continued compliance with this rule during the period the approved applicant has an outstanding loan obligation. The Department further reserves the right to request supplemental information it may deem necessary from an applicant in order to effectively administer the program and this rule.

R305-4-13. Indemnification.

The state government of Utah, any subdivision, or any agent of state government with responsibility for or obligation to the program cannot be held liable for injury or damage to persons, vehicles or other property caused by or involved with any equipment or vehicle purchased or converted to use a clean fuel or retrofitted in this program.

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